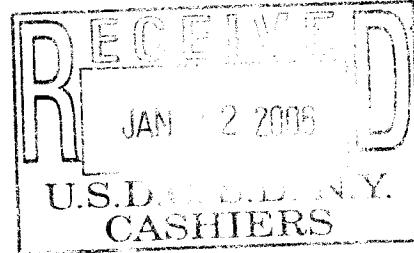


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Attorneys for Defendant
ICI Americas, Inc.

06 CV 00270



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

PAUL SMITH,

Plaintiff,

Civ. _____

- against -

NOTICE OF REMOVAL

ICI AMERICAS,

Defendant.

----- X

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK:

Defendant ICI Americas, Inc. ("ICI") respectfully seeks to remove this action from the Civil Court of the City of New York, County of New York, Small Claims Part, to the United States District Court for the Southern District of New York. As reasons therefor, ICI states as follows:

THE CIVIL COURT ACTION

1. Plaintiff Paul E. Smith purported to institute an action against ICI in the Civil Court of the City of New York, County of New York, Small Claims Part (the "Civil Court Action"), entitled Paul Smith v. ICI Americas, SCNY 5592/05-1, by preparing a Statement of Claim (see Exhibit A) and attempting (unsuccessfully) to have a Notice of Claim and Summons to Appear served upon ICI's New York subsidiary, Quest International (a separate and distinct

entity from ICI), located at 70 East 55th Street, New York, New York 10022. Significantly, plaintiff provided the Small Claims Court with an incorrect address for ICI's subsidiary (70 East 65th Street, New York, New York 10022), rather than the correct address (70 East 55th Street, New York New York 10022). Accordingly, ICI has never been served with any Small Claims Summons and Notice to Appear in this action.

2. According to the Statement of Claim, plaintiff's address is 132 East 45th Street, Apartment 8D, New York, New York 10017.

3. As set forth more fully below, plaintiff's Statement of Claim seeks recovery of the sum of \$4,950 plus interest to recover moneys arising out of non-payment of a medical insurance claim.

4. The Civil Court Action is removable from the Civil Court to this Court pursuant to 28 U.S.C. § 1441(a), because the complaint raises claims under the laws of the United States over which this Court has original jurisdiction under 28 U.S.C. §1331.

BASIS FOR REMOVAL

5. Plaintiff received health insurance from ICI by virtue of his employment with ICI. His wife, Sharon Smith, was also insured under ICI's health benefits plan, as a dependant of plaintiff.

6. ICI offered its employees, including plaintiff, the opportunity to participate in its self-funded health benefits plan. A self-funded benefits plan uses its own funds to pay for medical services rendered to its members.

7. The plan of health benefits provided by ICI to its employees, including plaintiff, constitutes an employee welfare benefit plan within the meaning of the Employee Retirement Income Security Act ("ERISA") 29 U.S.C. §§ 1001, et seq.

8. Plaintiff's Statement of Claim against ICI alleges that ICI failed to pay an insurance claim, and seeks reimbursement in the amount of \$4,950.

9. Because plaintiff's claim against ICI relates to an employee benefit plan within the meaning of ERISA, ICI may remove to this Court pursuant to 28 U.S.C. § 1441(a).

10. ERISA provides an exclusive federal enforcement scheme for claims by plan beneficiaries and preempts state tort and contract actions. 29 U.S.C. §§ 1132 and 1144.

11. This notice has been filed within the time provided by 28 U.S.C. § 1446(b) and the Federal Rules of Civil Procedure. Indeed, neither ICI nor its subsidiary, Quest International, has been served with a Notice of Claim and Summons to Appear, and therefore the time to remove has not commenced.. However, ICI received notice of this action on or about January 10, 2006 from its attorneys, who reviewed the Small Claims Court's files and learned of the actions that plaintiff attempted to commence against ICI.

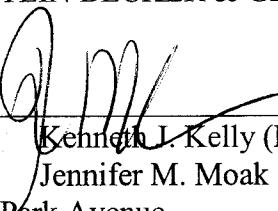
12. Upon the filing of this notice, ICI will give written notice to plaintiff of the removal, and will file a copy of this notice with the Clerk of the Court, New York City Civil Court, County of New York, Small Claims Part.

WHEREFORE, ICI Americas, Inc. respectfully requests that the Civil Court Action now pending in the Civil Court of the City of New York, County of New York, Small Claims Part, be removed to this Court.

New York, New York
January 11, 2006

EPSTEIN BECKER & GREEN, P.C.

By:



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Attorneys for Defendant
ICI Americas, Inc.

RECYCLED

INSTRUCTIONS: Place only ONE letter or number in
each space and leave a blank space between words

CIVIL COURT OF THE CITY OF NEW YORK
SMALL CLAIMS PART
STATEMENT OF CLAIM

(FOR OFFICE USE ONLY)

(Your) I. CLAIMANT'S INFORMATION

LAST NAME	SMITH	MIDDLE INITIAL	
FIRST NAME	PAUL		
ADDRESS (NO PO BOX)	132 E 45TH ST APT 8D		
CITY (Borough/Town/Village)	MANHATTAN	STATE	NY
OTHER INFO		ZIP	10017
Doing Business As [In care Of] Attention To [(Circle One)]			
PHONE NUMBER: ()			
(Their)			

II. DEFENDANT'S INFORMATION*

LAST NAME	ICL AMERICA	MIDDLE INITIAL	
FIRST NAME			
ADDRESS (NO PO BOX)	70 E 65 ST Street		
CITY (Borough/Town/Village)	NY	STATE	NY
OTHER INFO		ZIP	10022
Doing Business As [In care Of] Attention To [(Circle One)]			
PHONE NUMBER: ()			
Amount Claimed: \$ 49570.00 (Maximum \$5,000)			
Date of Occurrence or Transaction 6/3/99, 6/28/99, 8/2/01			

PRIMARY REASON FOR CLAIM (Check One):

Damage caused to: automobile other personal property real property person
 Failure to provide: proper repairs proper services proper merchandise goods paid for
 Failure to return: security property deposit money loaned
 Failure to pay: salary for services rendered insurance claim
 commissions for goods sold and delivered agreement
 Breach of: lease warranty use of property
 Loss of: luggage property
 Returned: check (bounced) check (stopped)

OTHER REASON: Be brief. Also, if needed, place IDENTIFYING NUMBER(S) here; Receipt #, Claim #, Account #, Policy #, Ticket #, License #, Plate #(s):

FIRST DATE

DAY COURT

STATUTORY

OTHER

Today's Date

Signature of Claimant or Agent

MF

Today's Date: 12-14-2005

Index No.:

5592 NSC 2005

Fee: 20.00 Paid

SMITH vs. ICI AMERICAS

Your Case is Scheduled for:

Thursday, January 19, 2006

CERTID #

COA CODE

JNSN

CLAIM AMT

\$ 4,950.00

STANDARD FEE: PLUS POSTAGE

FEES

CLAIMANT V. DEFENDANT

DEFENDANT V. THIRD PARTY

NO FEE: POSTAGE ONLY

CLAIMANT V. ADD'L DEFENDANT

WAGE CLAIM TO \$300

LANGUAGE

DATE DATA ENTERED

DATE NOTICES MAILED

CASE TYPE

MULTI DFT

CTR/CLM

3 PARTY

CRS/CMLPT

FIRST DATE

DAY COURT

STATUTORY

Signature of Claimant or Agent

*DEFENDANT'S NAME: The legal name will be required in order to obtain an enforceable judgment. If the Defendant is a business, its full and correct business name should be obtained from the Office of the County Clerk in the county in which the business is located or check on the following website: www.dos.state.ny.us. DEFENDANT'S ADDRESS: You must indicate the proper street address of the Defendant. A Post Office Box is not acceptable.

NOTE: If the Claim is a result of an automobile accident, the Claim must be OWNED against OWNER.

CIV SC-50 (revised 9/04)